

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In re:</b>	)	
<b>JII LIQUIDATING INC. f/k/a JERNBERG</b>	)	<b>Chapter 7</b>
<b>INDUSTRIES, INC., JSI LIQUIDATING INC.,</b>	)	<b>(Jointly Administered)</b>
<b>f/k/a JERNBERG SALES, INC., IM</b>	)	
<b>LIQUIDATING, LLC f/k/a IRON MOUNTAIN</b>	)	<b>Case No. 05-25909</b>
<b>INDUSTRIES LLC,</b>	)	
	)	
<b>Debtors.</b>	)	<b>Honorable John H. Squires</b>
	)	
	)	<b>Hearing Date: December 10, 2009</b>
	)	
	)	<b>Hearing Time: 9:30 a.m.</b>
	)	

**NOTICE OF MOTION**

**To: See Attached Service List**

On November 19, 2009, McGuireWoods, LLP ("McGuireWoods") filed the **Final Application** (the "**Application**") of **Nicholas C. Tolerico For Allowance of Compensation As the Trustee's Consultant With Respect to Certain Litigation** seeking: (i) the allowance of compensation in the amount of \$10,290.00 for the period from April 1, 2009 through July 1, 2009, (the "**Compensation Period**"); (ii) immediate payment of these amounts from funds currently held in the bankruptcy estate of JII Liquidating, Inc., f/k/a Jernberg Industries, Inc., (iii) and rendering final interim compensation previously allowed by the Court.

Copies of the Application and all supporting documentation are available for review upon written request to Paul J. Catanese, McGuireWoods LLP, 77 W. Wacker Drive, Suite 4100, Chicago, IL 60601, facsimile: (312) 920-3697, and electronic mail: pcatanese@mcguirewoods.com, or, with a valid password, through the PACER system on the website for the United States Bankruptcy Court for the Northern District of Illinois (Eastern Division) (the "**Bankruptcy Court**") at [www.ilnb.uscourts.gov](http://www.ilnb.uscourts.gov).

A hearing (the "Hearing") will be held on the Application on **December 10, 2009**, at the hour of **9:30 a.m.** before the Honorable John H. Squires, United States Bankruptcy Judge (or any judge who may be sitting in his stead) in Courtroom 680 of the Bankruptcy Court located at 219 South Dearborn Street, Chicago, Illinois.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the Application, then on or before December 10, 2009, you or your attorney must file a written Objection to the Application, which should explain the reasons why you object, with the Clerk of the Bankruptcy Court at 219 South Dearborn Street, Chicago, Illinois, and/or appear at the Hearing on December 10, 2009.

If you do not object, the Court may grant the relief requested.

Dated: November 19, 2009

By /s/ **Paul J. Catanese**  
*One of the Attorneys for*  
*Richard J. Mason, Trustee*

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that he caused a copy of the **Notice of the Final Application of Nicholas C. Tolerico For Allowance of Compensation As the Trustee's Consultant With Respect to Certain Litigation**, to be served upon each of those parties on the attached Service List by United States mail, this 19<sup>th</sup> day of November, 2009.

**/s/ Paul J. Catanese**

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re: )  
JII LIQUIDATING INC. f/k/a ) Chapter 7  
JERNBERG INDUSTRIES, INC., JSI ) (Jointly Administered)  
LIQUIDATING INC., f/k/a )  
JERNBERG SALES, INC., IM ) Case No. 05-25909  
LIQUIDATING, LLC f/k/a IRON )  
MOUNTAIN INDUSTRIES LLC, )  
Debtors. ) Honorable John H. Squires  
Hearing Date: December 10, 2009  
Hearing Time: 9:30 A.M.

COVER SHEET FOR FINAL APPLICATION OF  
NICHOLAS C. TOLERICO FOR  
PROFESSIONAL COMPENSATION AS CONSULTANT TO THE TRUSTEE

Name of Applicant: Nicholas C. Tolerico

Authorized to Provide Professional Services to: Richard J. Mason, P.C., Ch. 7 Trustee

Date of Retention Order: February 2, 2009, *retroactive* to January 27, 2009 [Docket No. 1166]

Period for which Compensation is Sought: April 1, 2009, through July 1, 2009

Amount of Fees Sought: \$10,290.00

This is an: Interim Application ☐ Final Application ☒

If this is not the first application filed herein by this professional, disclose as to all prior fee applications:

Date Filed	Period Covered	Total Fees and Expenses Requested	Total Fees and Expenses Allowed
April 16, 2009	January 27, 2009 through February 18, 2009	\$7,297.50 (Fees) \$12.40 (Expenses)	\$7,297.50 (Fees) \$12.40 (Expenses)

State the aggregate amount of fees and expenses paid to the Applicant to date for services rendered and expenses incurred herein is: \$7,309.90.

Dated: November 19, 2009

Richard J. Mason, P.C., not individually but solely as the Chapter 7 Trustee of the above-captioned Debtors.

By: /s/ Paul J. Catanese  
One of his Attorneys

Richard J. Mason (ARDC #01787659)  
Paul J. Catanese (ARDC #06292530)  
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(312) 849-8100

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In re:</b>	)	
<b>JII LIQUIDATING INC. f/k/a</b>	)	<b>Chapter 7</b>
<b>JERNBERG INDUSTRIES, INC., JSI</b>	)	<b>(Jointly Administered)</b>
<b>LIQUIDATING INC., f/k/a</b>	)	
<b>JERNBERG SALES, INC., IM</b>	)	<b>Case No. 05-25909</b>
<b>LIQUIDATING, LLC f/k/a IRON</b>	)	
<b>MOUNTAIN INDUSTRIES LLC,</b>	)	
	)	<b>Honorable John H. Squires</b>
<b>Debtors.</b>	)	
	)	<b>Hearing Date: December 10, 2009</b>
	)	
	)	<b>Hearing Time: 9:30 a.m.</b>
	)	

**FINAL APPLICATION OF NICHOLAS C. TOLERICO  
FOR ALLOWANCE OF COMPENSATION AS THE  
TRUSTEE'S CONSULTANT WITH RESPECT TO CERTAIN LITIGATION**

Nicholas C. Tolerico ("Mr. Tolerico") consultant for Richard J. Mason, P.C., Chapter 7 Trustee (the "Trustee") for the bankruptcy estate of JII Liquidating, Inc., f/k/a Jernberg Industries, Inc. ("Jernberg"), JSI Liquidating, Inc. f/k/a Jernberg Sales, Inc. ("Sales") and IM Liquidating, LLC, f/k/a Iron Mountain Industries, LLC ("Iron Mountain"), submits this Final Application (the "Application") of Nicholas C. Tolerico for Allowance of Compensation as Consultant to the Trustee for Consulting Services (the "Applicable Services") related to certain litigation during the period from April 1, 2009, through July 1, 2009 (the "Compensation Period"). The Trustee requests the entry of an order allowing and authorizing payment of Compensation (the "Compensation") in the amount of \$10,290.00 for services provided by Mr. Tolerico as consultant to the Trustee, and rendering final interim compensation previously allowed by the Court, and in support thereof, respectfully states as follows:

### **Introduction**

1. This Motion constitutes a core proceeding under 28 U.S.C. §§157(b)(2)(A), (F), and (O), and the Court has jurisdiction under 28 U.S.C. §§ 157 and 1334.

2. Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

### **Background**

3. The Debtors in these jointly administered bankruptcy estates are JII Liquidating, Inc., f/k/a Jernberg Industries, Inc. (“Jernberg”), JSI Liquidating, Inc., f/k/a Jernberg Sales, Inc. (“Sales”) and IM Liquidating, LLC, f/k/a Iron Mountain Industries, LLC (“Iron Mountain” and, with Jernberg and Sales, the “Debtors”).

4. On June 29, 2005 (the “Petition Date”), each of Jernberg, Sales and Iron Mountain filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division and their cases were assigned, respectively, case nos. 05-B-25909 (the “Jernberg Case”), 05-B-25910 (the “Sales Case”) and 05-B-25912 (the “Iron Mountain Case”). The Jernberg Case, the Sales Case and the Iron Mountain Case are being jointly administered under the Jernberg Case number.

5. On or about September 2005, the Bankruptcy Court approved a sale, pursuant to 11 U.S.C. § 363 (the “363 Sale”) of most of the Company Debtors’ assets, including their business records, to a third party purchaser, Haephestus Holdings, Inc. (“HHI”), and the sale was consummated shortly after entry of that order.

6. Subsequently, the Jernberg Case, the Sales Case and the Iron Mountain Case were converted to cases under chapter 7 of the Bankruptcy Code.

7. On October 11, 2005, after the conversion of the Cases, the Trustee was appointed.

8. The Trustee filed numerous adversary proceedings related to avoidable transactions, including an adversary proceeding captioned *Mason v. Republic Engineered Products, Inc.*, case number 07-A-0585 (the “Republic Adversary”) against, among other parties, Republic Engineered Products, Inc. (the “Defendant”) filed on or about June 25, 2007. The Republic Adversary contained counts relating to avoidable preferences under 11 U.S.C. § 547 and a certain payment made during the Chapter 11 case by the buyer of the estate assets (the “363 Buyer”) directly to Republic.

9. On February 5, 2009, the Trustee filed a motion (the “Retention Application”)<sup>1</sup> [**Docket No. 1165**] to retain Mr. Tolerico as a consultant in relation to certain pending litigation. Mr. Tolerico’s focus was on the normal credit terms in the steel industry as they related to the Trustee’s preference theories and on certain industry practices relating to the litigated transaction between Republic and the 363 Buyer.

10. On February 12, 2009, the Court entered an Order [**Docket No. 1166**] authorizing the Trustee to retain Mr. Tolerico as his consultant *nunc pro tunc* to January 27, 2009.

11. On April 16, 2009, the Trustee filed the First Application for Compensation for Nicholas C. Tolerico seeking compensation in the amount of \$7,297.50 and expense reimbursement in the amount of \$12.40 (the “First Interim Application”) [**Docket No. 1177**] .

12. On April 28, 2009, the Court entered an order granting Mr. Tolerico’s First Interim Application and allowing compensation in the amount of \$7,297.50 and expense reimbursement in the amount of \$12.40. [**Docket No. 1178**].

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<sup>1</sup> The motion is titled “Trustee’s Motion for Entry of an Order (I) Authorizing the Trustee to Employ Nicholas C. Tolerico as the Trustee’s Consultant with Respect to Certain Pending Litigation; (II) Approving the Terms of Such Retention; and (III) Granting Related Relief.”



13. Pursuant to an Amended Final Pre-Trial Order, a trial in the Republic Adversary was set for July 13, 2009.

14. On July 17, 2009, the Trustee filed a Motion to compromise and settle the Republic Adversary (the "Motion to Compromise"). **[Docket No. 1182]**.

15. On August 6, 2009, the Court held a hearing on the Motion to Compromise and entered an order approving the Motion to Compromise. **[Docket No. 1184]**.

16. Under the terms of the settlement, among other things, Republic paid \$2,175,000 to the Estate, waived and released a pre-petition claim in excess of \$14 million, and waived a reclamation demand of \$1,151,607.

17. There is currently approximately \$4,457,000.00 in the Debtors' bankruptcy estates.

#### **Relief Requested**

18. Through this Application, Mr. Tolerico seeks entry of an order, pursuant to sections 330 of the Bankruptcy Code, approving and authorizing payment of the Compensation in the amount of \$10,290.00 during the approximately 12-week Compensation Period. Additional, Mr. Tolerico seeks entry of an order rendering final interim compensation previously allowed by the Court.

#### **Nature of Services Provided by Mr. Tolerico**

19. All of the services performed by Mr. Tolerico for which compensation is being sought were performed for and on behalf of the Trustee.

20. This Application has been prepared with the intention of complying with the applicable standards set forth in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and Local Rule of Bankruptcy Procedure 5082-1.

21. In accordance with section 330 of the Bankruptcy Code, Mr. Tolerico has represented to the Trustee that the amount of fees is fair and reasonable given: (a) the complexity of this case; (b) the time expended; (c) the nature and extent of the services rendered; (d) the value of such services; and (e) the costs of comparable services other than in a case under the Bankruptcy Code.

22. During the Compensation Period and as a general summary of the services provided, Mr. Tolerico: (i) drafted an expert report (the "Report") on steel industry practices in 2005, including an analysis of: (a) typical payment terms and production agreements between steel producers and automotive OEMs; (b) the terms of sale and payment of accounts receivable between the Debtors and Republic; and (c) the supply agreement between New Jernberg and Republic; (ii) had several telephone conferences with counsel for the Trustee regarding his analysis and report related to the supply arrangement between Republic and Jernberg and New Jernberg; and (iii) traveled to Chicago to be deposed by counsel for Republic regarding the Report.

23. All of the services provided by Mr. Tolerico, including all fees charged, are described in the invoice attached hereto as Exhibits A.

24. All of the services summarized above were reasonably necessary in order that the interest of the estate and its creditors be adequately represented and defended and to maximize the recovery of the estate and its creditors.

**Computation of Compensation**

25. The services performed by Mr. Tolerico during the Compensation Period required a total time expenditure of approximately 34.8 hours. The services for which Mr. Tolerico is seeking compensation are set forth with particularity in Exhibits A. Based on the nature, extent and value of the services for which Mr. Tolerico is seeking compensation, the time spent on such services and the cost of comparable services other than in case under the Bankruptcy Code, such services have a value of not less than \$10,290.00.

26. The rate charged by Mr. Tolerico in providing services to the estate is set forth as follows:

Name	Title	Total Hours	Rate (\$/hour)	Total Value
Nicholas C. Tolerico	N/A	24	\$350.00 (Consulting Time)	\$8,400.00
Nicholas C. Tolerico	N/A	10.8	\$175.00 (Travel Time)	\$1890.00
<b>Total</b>				<b>\$10,290.00</b>

**Notice**

27. Sections 330 of the Bankruptcy Code require notice and a hearing before any action on this Application. The Trustee has mailed a copy of the notice (the "Notice") of this Application to (i) the creditors of the Debtor's estate, (ii) the United States Trustee, and (iii) those parties who have requested receipt of pleadings in these cases pursuant to Federal Rule of Bankruptcy Procedure 2002. A copy of the Notice is attached hereto as Exhibit B. Since the foregoing parties have been the most active in these cases, the Trustee requests that the Court determine that such notice is adequate and appropriate under the circumstances. Additionally, a complete copy of this application

with all supporting exhibits has been served electronically on all parties receiving electronic notices from the Court pursuant to the Court's electronic filing system (a/k/a ECF). McGuireWoods will make copies of this Application and all supporting documentation available to any party in interest that submits a written request via regular mail to Paul J. Catanese at McGuireWoods LLP, 77 W. Wacker Drive, Suite 4100, Chicago, IL 60601; via facsimile at (312) 920-3697; or via electronic mail at pcatanese@mcguirewoods.com.

WHEREFORE, the Trustee respectfully requests this Court to enter an order:

- A. Granting this Motion;
- B. Allowing Mr. Tolerico Compensation in the amount of \$10,290.00 and rendering the Compensation as final;
- C. Rendering final the interim compensation and expense reimbursement previously allowed by the Court on April 28, 2009; and
- D. Granting the Trustee such further relief as the Court deems just and proper.

Dated: November 19, 2009

By /s/ Paul J. Catanese  
*One of the Attorneys for Richard J. Mason, Trustee*

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